

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

MEMORANDUM

TO: PUBLIC SAFETY AND ELECTIONS TASK FORCE MEMBERS
FROM: COURTNEY O'BRIEN, TASK FORCE DIRECTOR
DATE: JUNE 30, 2011
RE: 35 DAY MAILING—2011 ANNUAL MEETING

The American Legislative Exchange Council will host its 2011 Annual Meeting **August 3-6** at the **New Orleans Marriot, Louisiana**. You may register for the meeting [here](#).

The Public Safety and Elections Task Force will meet in **LA Gallery 5** from **2:30 – 5:30 pm** on **Thursday, August 4th**. We have an exciting agenda including the introduction of policy on the justification of state criminal offenses, the legal possession and purchase of firearms, appropriate disclosure requirements, and consideration of civil asset forfeiture policy. ALEC has passed policy on civil asset forfeiture and will consider a motion to repeal the current model and replace it with an extended version.

The Task Force will also host a debate: “The Electoral College v. The National Popular Vote.” ALEC currently has two model resolutions in opposition to the National Popular Vote. The Task Force will also discuss automated enforcement policy and request feedback from membership.

Please find the following materials enclosed:

- Annual Meeting Agenda-at-a-Glance
- Task Force Meeting Tentative Agenda
- 2011 Spring Task Force Summit Minutes
- Draft Model Legislation
- Task Force Roster
- ALEC Mission Statement
- Scholarship Policies by Meeting
- AM Registration Forms
- ALEC Task Force Operating Procedures

I look forward to seeing all of you in New Orleans, LA! If you have any questions or comments regarding the meeting, please do not hesitate to contact me at 202-742-8504 or by e-mail at cobrien@alec.org.

Sincerely,



Courtney O'Brien
Public Safety and Elections Task Force Director

ALEC 2011 Annual Meeting Agenda*

All meetings will be held in New Orleans Marriott unless otherwise

Monday, August 1

Board of Directors Reception, <i>by invitation only</i>	6:00 p.m. - 7:00 p.m.
Board of Directors Dinner, <i>by invitation only</i>	7:00 p.m. - 9:00 p.m.

Tuesday, August 2

Registration Open	12:00 p.m. - 5:00 p.m.
Joint Board of Directors Meeting	9:00 a.m. - 5:30 p.m.
State Chairs Training	3:00 p.m. - 5:00 p.m.
Leadership Reception, <i>by invitation only</i>	6:00 p.m. - 7:00 p.m.
Leadership Dinner, <i>by invitation only</i>	7:00 p.m. - 9:00 p.m.
Hospitality Suite	9:00 p.m. - 11:00 p.m.

Wednesday, August 3

Registration Open	7:30 a.m. - 5:00 p.m.
Task Force Subcommittee Meetings	7:30 a.m. - 11:30 a.m.
State Chairs Meeting	9:00 a.m. - 11:15 a.m.
ALEC Exhibition Hall Open	9:30 a.m. - 5:00 p.m.
Opening Luncheon	11:30 a.m. - 1:30 p.m.
Workshop I	1:45 p.m. - 3:00 p.m.
Workshop II	1:45 p.m. - 3:00 p.m.
Task Force Chairs Meeting, <i>by invitation only</i>	3:15 p.m. - 4:15 p.m.
Workshop III	3:15 p.m. - 4:30 p.m.
Workshop IV	3:15 p.m. - 4:30 p.m.
Chairman's Reception, <i>by invitation only</i>	5:00 p.m. - 6:00 p.m.
Louisiana Welcome Reception	6:30 p.m. - 8:30 p.m.
Hospitality Suite	9:00 p.m. - 11:00 p.m.

Thursday, August 4

Registration Open	7:30 a.m. - 5:00 p.m.
ALEC Exhibition Hall Open	9:30 a.m. - 5:00 p.m.
Plenary Breakfast	8:00 a.m. - 9:15 a.m.
Workshop V	9:30 a.m. - 10:45 a.m.
Workshop VI	9:30 a.m. - 10:45 a.m.
Workshop VII	11:00 a.m. - 12:15 p.m.
Workshop VIII	11:00 a.m. - 12:15 p.m.
Plenary Luncheon	12:30 p.m. - 2:15 p.m.
Task Force Meetings	2:30 p.m. - 5:30 p.m.
• Energy, Environment and Agriculture	
• Health and Human Services	
• International Relations	
• Public Safety and Elections	
• Tax and Fiscal Policy	
Health and Human Services Task Force Reception, <i>by invitation only</i>	5:30 p.m. - 6:30 p.m.
International Relations Reception, <i>by invitation only</i>	5:30 p.m. - 6:30 p.m.
Reception	6:30 p.m. - 8:30 p.m.
Hospitality Suite	9:00 p.m. - 11:00 p.m.

Friday, August 5

Friday, August 5

Registration Open	7:30 a.m. - 12:30 p.m.
ALEC Exhibition Hall Open	9:30 a.m. - 12:00 p.m.
Plenary Breakfast	8:00 a.m. - 9:15 a.m.
Workshop IX	9:30 a.m. - 10:45 a.m.
Workshop X	9:30 a.m. - 10:45 a.m.
Workshop XI	11:00 a.m. - 12:15 p.m.
Workshop XII	11:00 a.m. - 12:15 p.m.
Plenary Luncheon	12:30 p.m. - 2:15 p.m.
Task Force Meetings	2:30 p.m. - 5:30 p.m.
• Commerce, Insurance and Economic Development	
• Civil Justice	
• Education	
• Telecommunications and Information Technology	
Telecommunications and Information Technology Task Force Reception	5:30 p.m. - 6:30 p.m.
Incoming Chairman's Reception, <i>by invitation only</i>	5:30 p.m. - 6:30 p.m.
State Night <i>Contact your state chair</i>	6:30 p.m.

Saturday, August 6

Prayer Service**	9:00 a.m. - 10:30 a.m.
Experience New Orleans Activities Shooting outing	TBD

**Agenda subject to change*

*** Unaffiliated event*

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

Public Safety and Elections Task Force
2011 Annual Meeting
Thursday, August 4
2:30 PM – 5:30 PM
Room: LA Gallery 5
Tentative Agenda

1. Call to Order 2:30 PM
Attendance
Approval of Minutes
Introduction of New Members

2. Presentations and Model Legislation 2:50 PM

“Gun Owners’ Privacy and Access to Health Care Act”
Ms. Tara Mica, *National Rifle Association*

“Honesty in Purchasing Firearms Act”
Ms. Tara Mica, *National Rifle Association*

“Disposition of Firearms in State or Local Custody Act”
Ms. Tara Mica, *National Rifle Association*

Presentation: MMR Group (15)

“Asset Forfeiture Process and Private Property Protection Act”
Mr. Lee McGrath, *Institute for Justice*

“Criminal Offense Justification Act”
Rep. B.J. Nikkel, *CO*

DEBATE: “Electoral College v National Popular Vote” (45)
Moderated by: Rep. Jerry Madden, *TX*
Mr. Trent England, *Evergreen Freedom Foundation*
Mr. Ray Haynes, *National Popular Vote*

“Resolution in Support of Appropriate Disclosure Requirements”
Mr. Sean Parnell, *Center for Competitive Politics*

“Principles of Legislative Transparency”
Rep. Jerry Madden, *TX*
Co-Presenter: Mr. Jason Mercier, *Washington Policy Center*

DISCUSSION: “ALEC and Automated Enforcement Devices” (15)
Mr. George Hittner and Mr. Andrew Schauder, *American Traffic Solutions*

3. For the Good of the Order 5:20 PM
4. Adjournment 5:30 PM

American Legislative Exchange Council
Public Safety & Elections Task Force
2011 Spring Task Force Summit
April 29, 2011

Attendees:

Public Sector (13)

Rep. Scott Suder, *Wisconsin* (Public Sector Stand-in Chair)
Rep. Kathy Bernier, *Wisconsin*
Rep. Charles Jim Beckett, *Mississippi*
Rep. Joshua G. Evans, *Tennessee*
Rep. Joseph M. Fischer, *Kentucky*
Rep. Mark D. Hamilton, *Georgia*
Sen. Frank LaRose, *Ohio*
Rep. Casey Kozlowski, *Ohio*
Rep. Scott Krug, *Wisconsin*
Rep. Jarrod B. Martin, *Ohio*
Sen. Jack Murphy, *Georgia*
Rep. David B. Reis, *Illinois*
Rep. Jennifer M. Seelig, *Utah*

Private Sector (16)

Stacie Rumenap, *Stop Child Predators* (Private Sector Chair)
Jeff Boschwitz, *Orchid Cellmark*
Jon Burton, *Reed Elsevier*
Bill Carmichael, *American Bail Coalition* (Stand-in for Dennis Bartlett)
Raymond Haynes, *National Popular Vote*
William Hoffman, *National Popular Vote*
Peter Holran, *TASER International*
Gregory Hoke, *Reckitt Benckiser Pharmaceuticals*
Sally Jefferson, *Wine Institute*
Jenny Kim, *Koch Companies Public Sector*
Marc Levin, *Texas Public Policy Foundation*
Eli Lehrer, *The Heartland Institute* (Task Force Advisor)
Paul Pisano, *National Beer Wholesalers Association*
Jessie Rager, *Koch Companies Public Sector*
John Sanders, *John Locke Foundation*
Kristin Turner, *Justice Fellowship*

Guests (15)

Mary Lisa Boose, *Spouse*
Rep. Danny Bubp, *Ohio*
Amber Gunn, *The Evergreen Freedom Foundation*
George J. Hittner, *American Traffic Solutions*
Rep. Robert Mecklenborg, *Ohio*
Jason Mercier, *The Washington Policy Center*
Rachael Phinney, *Serlin Hale LLP*
Roy Ragland, *Legislative Staff*

Rep. Ron Reagan (RET), *National Coalition for Safer Roads*
Vikrant Reddy, *Texas Public Policy Foundation*
Shana Tara Regon, *National Association of Criminal Defense Lawyers*
Andrew Schauder, *American Traffic Solutions*
Sally-Jo Sorensen, *McLeod County Farmers Union*
Rep. Joseph Thomas, *New Hampshire*
Brian Walsh, *The Heritage Foundation*

I. Preliminaries

The task force approved the minutes of the December meeting by a unanimous voice vote.

II. Subcommittee Reports

1. Corrections and Reentry – Rep. Scott Suder, WI

The working group held a conference call on April 14, 2011 and passed unanimously the following pieces of model policy: *Criminal Intent Protection Act*, *The Treating Accused Persons Fairly Act*, and *ALEC Resolution on DNA Testing and Victims' Rights*. The Working Group tabled the *Civil Liability Relief for Employers Hiring Ex-Offenders Act* for the Spring Task Force Summit.

2. Child Safety – Stacie Rumenap, *Stop Child Predators*

Rep. Scott Suder, WI was announced as Public Sector Chair of the Child Safety Subcommittee. Jon Burton, *Reed Elsevier* was announced as the Private Sector Co-Chair of the Child Safety Subcommittee. The subcommittee met the morning of April 29th to discuss the Adam Walsh Child Protection and Safety Act and the topic of cyber-bullying.

III. Presentation

1. “Photo Enforcement: Innovative solutions for enhancing road safety, reducing injuries and saving lives” by Mr. George J. Hittner, *American Traffic Solutions* and Former Speaker Pro Tem of the Florida House of Representatives, Rep. Ron Reagan (RET), *National Coalition for Safer Roads*.

IV. Consideration of Model Legislation

1. “Law Enforcement Officer Safety Equipment Fund Act”- by Mr. Peter Holran, *TASER*

The Act establishes a dedicated state law enforcement officer safety equipment fund to assist departments of public safety with the purchase of law enforcement officer safety equipment such as ballistic vests, electronic stun devices, on-officer cameras and surveillance equipment, and other law enforcement officer safety equipment. The Act also establishes an assessment to be levied on every civil penalty or fine imposed and collected by the courts that is a result of a citation issued by a peace officer for a civil traffic violation, a violation of a misdemeanor offense or any local ordinance relating to stopping, standing or operating a vehicle. This assessment will be equally divided between the state law enforcement officer safety equipment fund and the local agency that issues the citation.

Motion to adopt the model legislation; passed the public sector unanimously; passed the private sector unanimously. **Bill Passed.**

2. “Criminal Intent Protection Act” by Mr. Marc Levin, *Texas Public Policy Foundation*

To protect persons from unjust punishment under vague or ambiguous criminal offenses by codifying default rules of application for criminal intent (*mens rea*) requirements within criminal law.

Motion to adopt the model legislation; passed the public sector unanimously; passed the private sector unanimously. **Bill Passed.**

3. “The Treating Accused Persons Fairly Act”- by Mr. Marc Levin, *Texas Public Policy Foundation*

To protect persons from unjust criminal punishment for alleged violations of vague and unclear offenses by codifying the common-law rule of lenity and safeguarding due process rights.

Motion to adopt the model legislation; passed the public sector unanimously; passed the private sector unanimously. **Bill Passed.**

4. “Civil Liability Relief for Employers Hiring Ex-Offenders Act”- by Mr. Marc Levin, *Texas Public Policy Foundation*

This legislation would immunize employers who hire ex-offenders without a violent or sex offense from being sued on that basis alone.

Motion to adopt the model legislation; passed the public sector unanimously; passed the private sector unanimously. **Bill Passed.**

5. “Legislative Transparency Act”- by Mr. Jason Mercier, *The Washington Policy Center*

Transparency and public disclosure in the legislative process is vital to a representative democracy. The purpose of public hearings is to respectfully hear from the public so that citizens are provided the opportunity to comment on proposed changes to state law. This bill requires state legislatures to provide adequate notice before public hearings or votes so that citizens are able to participate in the legislative process in a meaningful way.

Dual-Referred between Tax and Fiscal Policy Task Force & Public Safety and Elections Task Force.

Motion to adopt the model legislation as amended in the Tax and Fiscal Policy Task Force; failed the public sector. **Bill Failed.**

6. “State Agency Lobbying Reform Act”- by Ms. Amber Gunn, The Evergreen Freedom Foundation

Taxpayers are opposed to state agencies using public funds to influence the Legislature to protect themselves and their employees from meaningful reforms. This bill will restrict taxpayer-lobbying and provide taxpayers with a full account of an agency’s lobbying activities.

Motion to adopt the model legislation; passed the public sector unanimously; passed the private sector unanimously. **Bill Passed.**

7. "ALEC Resolution on DNA Testing and Victims' Rights" - by Dr. Jeff Boschwitz, *Orchid Cellmark*

A Resolution supporting states require that all sexual assault kits collected (where the case meets the criteria for CODIS (Combined DNA Index System) eligibility) are tested for DNA.

Motion to adopt the model resolution; passed the public sector unanimously; passed the private sector unanimously. **Resolution Passed.**

- 8-10. "Resolution Supporting Childbirth Protection" - by Ms. Kristi Turner, *Justice Fellowship*

This Resolution calls for a limit to the practice of shackling pregnant inmates

"Childbirth Protection Act" – by Ms. Kristi Turner, *Justice Fellowship*

Relating to use of restraints on pregnant inmates, defendants and detainees who are in labor, delivering a baby or in post-partum recovery; prohibiting such use except under certain circumstances; and allowing for the presence of medical or infirmary staff during post-partum strip search upon return to prison, jail or detention facility.

"Resolution Regarding Prison Populations and Redistricting"- by Mr. Sean Parnell, *Center for Competitive Politics*

This resolution opposes the practice of prison-based gerrymandering and encourages states to count prisoners as members of their pre-incarceration communities for the purposes of redistricting.

Motion to table the *Resolution Supporting Childbirth Protection, Childbirth Protection Act, and Resolution Regarding Prison Populations and Redistricting* at the request of the sponsors; passed the public sector unanimously; passed the private sector unanimously. **Bills Tabled.**

V. For the Good of the Order

VI. Adjournment

1 **DRAFT Gun Owners' Privacy and Access to Health Care Act**

2

3 *Summary*

4

5 This Act prevents health care practitioners from denying care to patients who lawfully
6 own firearms. The Act prevents insurers from charging premium rates or denying
7 coverage simply because a policyholder legally possesses firearms. This Act also ensures
8 that health care practitioners may still obtain information about a patient's firearm or
9 ammunition-related activity that is directly relevant to that patient's own treatment.

10 *Legislation*

11

12 **{Title, enacting clause, etc.}**

13

14 **Section 1. {Title}**

15

16 This Act may be cited as the "Gun Owners' Privacy and Access to Health Care Act"

17

18 **Section 2. {Legislative Intent; Findings}**

19

20 The legislature finds that:

21

22 (A) Individuals have a right under the constitutions of [insert state] and the United States
23 to keep and bear arms, which arms include firearms and their ammunition;

24

25 (B) An individual's decision to exercise this right is a private matter;

26

27 (C) [Insert state]'s law generally prohibits the keeping of registries or lists of privately-
28 owned firearms [if applicable];

29

30 (D) Lawfully possessed, stored, and used firearms and ammunition are not a risk to
31 public health;

32

33 (E) Health care practitioners do not have any special expertise in the safe storage or use
34 of firearms or ammunition merely by virtue of their status as health care practitioners,
35 and to the degree health care practitioners have general advice to impart concerning
36 firearms and ammunition, they may do so without knowing whether any particular patient
37 actually possesses or uses these items;

38

39 (F) Health care practitioners do not have a need to know whether a patient lawfully
40 possesses or uses firearms or ammunition unless the patient specifically exhibits
41 symptoms of illness or injury that the health care practitioner could reasonably attribute
42 to the possession or use of firearms or ammunition or unless the patient has expressed a
43 desire to harm the patient's self or others;

44

45

- 46 (G) Patients should not be compelled to participate in a health care practitioner's
47 gathering of statistical or demographic information about the use, storage, and possession
48 of firearms and ammunition for research or other purposes not directly related to the
49 patient's own treatment;
- 50
- 51 (H) A patient's decisions about the lawful possession or use of firearms or ammunition
52 or about whether to disclose such decisions is not a proper basis for a health care
53 practitioner to determine who the practitioner will or will not treat; and
- 54
- 55 (I) Patients have been denied care based on the refusal to answer unwarranted inquiries
56 about constitutionally-protected conduct related to firearms and ammunition, and such
57 denials result in an increase in healthcare costs and delays in access to needed care.
- 58
- 59 (J) The legislature intends with this Act to ensure that patients may obtain health care
60 free from discrimination based on, or unwarranted inquiry into, constitutionally-protected
61 conduct involving firearms or ammunition and to ensure that health care practitioners
62 may still obtain information about a patient's firearm or ammunition related activity that
63 is directly relevant to that patient's own treatment.

64

65 **Section 3. {Definitions}**

- 66
- 67 (A) "Health care practitioner" has the same meaning as in [cite to state's broadest
68 definition of health care practitioner or like term].
- 69
- 70 (B) "Patient" means a person under the care of or who seeks professional services from a
71 health care practitioner.

72

73 **Section 4. {Prohibited Bases for Refusal to Treat}**

74

75 Except as provided in section (5), a health care practitioner may not refuse to treat or to
76 accept a referral for treatment of a patient based on:

- 77
- 78 (A) The lawful ownership, possession, handling, storage, maintenance, or other legal
79 conduct involving firearms or ammunition by the patient or a member of the patient's
80 household; or
- 81
- 82 (B) The patient's -- and if the patient is a minor, the patient's parent's or guardian's --
83 refusal to disclose such information.

84

85 **Section 5. {Requirements When Inquiring Into Firearm or Ammunition-Related
86 Activity}**

87

88 Except as provided in section (6), a health care practitioner who questions a patient -- and
89 if the patient is a minor, who questions the patient's parent or guardian -- about the
90 ownership, possession, handling, storage, maintenance, or other conduct involving

91 firearms or ammunition by the patient or a member of the patient's household shall first
92 do the following:

93
94 (A) Inform the patient, parent, or guardian that he or she will be asked about firearms
95 and ammunition;

96
97 (B) Inform the patient, parent, or guardian about the purpose of the question;

98
99 (C) Inform the patient, parent, or guardian that he or she is not required to answer the
100 question; and

101
102 (D) Inform the patient, parent, or guardian that failure to answer the question will not
103 result in refusal or termination of the patient's treatment with the health care practitioner.

104
105 Section 6. {Exceptions}

106
107 The requirements of sections (4) and (5) shall not apply if:

108
109 (A) The health care practitioner reasonably believes the patient is in immediate
110 possession or control of a firearm or ammunition and poses an imminent threat to the
111 patient's self or another with such firearm or ammunition;

112
113 (B) The patient has brought a firearm or ammunition into an area where such firearm or
114 ammunition is prohibited;

115
116 (C) The patient -- and if the patient is a minor, the patient's parent or guardian --
117 volunteers information about a firearm or ammunition without being asked about it; or

118
119 (D) The health care practitioner reasonably and in good faith believes that disclosure of
120 the requested information is necessary to diagnose or treat a specific illness or injury, but
121 this exception shall not apply to a generalized belief that firearms are harmful to health or
122 safety.

123
124 Section 7. {Penalties}

125
126 (A) The Agency for Health Care Administration may impose an administrative fine upon
127 a health care practitioner who violates any provision of sections (4) or (5). The fine shall
128 not exceed \$5,000 for nonwillful violations nor \$10,000 for intentional and willful
129 violations. Each intentional and willful violation constitutes a separate violation and is
130 subject to a separate fine.

131
132 (B) An administrative fine may be imposed by the [name appropriate regulatory board],
133 or the department of health if no such board exists, when a health care practitioner
134 violates any provision of sections (4) or (5). The fine shall not exceed \$1,000 for
135 nonwillful violations nor \$5,000 for willful violations. Each intentional and willful
136 violation constitutes a separate violation and is subject to a separate fine.

- 137
138 (C) A violation of any provision of sections (4) or (4) shall also subject the health care
139 practitioner to appropriate discipline under [cite code sections allowing for professional
140 discipline of health care practitioners].
- 141
142 **Section 8. {Impermissible Grounds for Discrimination in Insurance Contracts}**
- 143 (A) A premium rate may not be increased, insurance coverage may not be denied or
144 canceled, and a discount, rebate, or reward that would otherwise be available may not be
145 reduced or withheld under any insurance plan issued pursuant to [cite title or chapter
146 regulating insurance] on the basis of, or on reliance upon, the lawful ownership,
147 possession, use, or storage of a firearm or ammunition by the applicant, the insured, or a
148 member of the applicant's or insured's household.
- 149
150 (B) Violation of this section is grounds for disapproval, or withdrawal of an existing
151 approval, of a filing under [cite state statute that requires insurance forms and rating
152 materials to be submitted to state for approval], and a nonconforming policy shall
153 additionally be subject to the provisions of [cite state statute that pertains to validity of
154 non-compliant insurance contracts]. Nothing in this subdivision shall be construed to
155 limit or impair any other remedies available to the applicant or insured in law or in
156 equity.
- 157
158 (C) Nothing in this section shall prevent an insurer from considering the fair market
159 value of firearms or ammunition in the setting of premiums for scheduled personal
160 property coverage or other property coverage for the loss, theft, damage, or destruction of
161 a firearm or ammunition.
- 162
163 **Section 9. {Severability Clause}**
- 164
165 **Section 10. {Repealer Clause}**
- 166
167 **Section 11. {Effective Date}**
- 168
169

1 **DRAFT Honesty in Purchasing Firearms Act**

2

3 ***Summary***

4

5 This Act makes it a felony to knowingly deceive a licensed dealer of firearms in order to

6 purchase or transfer firearms.

7

8 ***Legislation***

9

10 **{Title, enacting clause, etc.}**

11

12 **Section 1. {Title}**

13

14 This Act may be cited as the “Honesty in Purchasing Firearms Act”

15

16 **Section 2. {Definitions}**

17

18 (A) For purposes of this section:

19

20 (1) “Licensed dealer” means a person who is licensed pursuant to 18 U.S.C. § 923

21 [and citation to state firearm dealer licensing provision] to engage in the business

22 of dealing in firearms.

23

24 (2) “Private seller” means a person who sells or offers for sale any firearm, as

25 defined in [citation to state code provision defining “firearm”], or ammunition.

26

27 (3) “Ammunition” means any cartridge, shell, or projectile designed for use in a

28 firearm.

29

30 (4) “Materially false information” means information that portrays an illegal

31 transaction as legal or a legal transaction as illegal.

32

33 **Section 3. {Purchasing Firearms}**

34

35 (A) Any person who knowingly solicits, persuades, encourages or entices a licensed

36 dealer or private seller of firearms or ammunition to transfer a firearm or ammunition

37 under circumstances which the person knows would violate the laws of this state or the

38 United States is guilty of a felony.

39

40 (B) Any person who provides to a licensed dealer or private seller of firearms or

41 ammunition what the persons knows to be materially false information with intent to

42 deceive the dealer or seller about the legality of a transfer of a firearm or ammunition is

43 guilty of a felony.

44

45 (C) Any person who willfully procures another to engage in conduct prohibited by this

46 section shall be held accountable as a principal.

47
48 (D) This section does not apply to a law enforcement officer acting in his or her official
49 capacity or to a person acting at the direction of such law enforcement officer.

50
51 (E) A violation of this section is punishable by a fine not to exceed \$5,000, a term of
52 imprisonment not to exceed five years, or both such fine and imprisonment.

53
54 **Section 4. {Severability Clause}**

55
56 **Section 5. {Repealer Clause}**

57
58 **Section 6. {Effective Date}**

1 **DRAFT Disposition of Firearms in State or Local Custody Act**

2

3 *Summary*

4

5 This Act requires firearms held in state or local custody to be auctioned off to licensed
6 firearm dealers or manufacturers. In addition, they may destroy or dispose of firearms
7 deemed unsafe for use.

8

9 *Legislation*

10

11 {Title, enacting clause, etc.}

12

13 **Section 1. {Title}**

14

15 This Act may be cited as the "Disposition of Firearms in State or Local Custody Act."

16

17 **Section 2. {Definition of Firearm}**

18

19 (A) [Citation to state code's broadest definition of "firearm"; if state law generally
20 excludes muzzleloaders or antique firearms from the definition of "firearm", create a
21 more inclusive definition for purposes of this section.]

22

23 **Section 3. {Disposal of Firearms}**

24

25 (A) Notwithstanding [citation to any other relevant law governing disposition of forfeited
26 property by the state or its political subdivisions], and subject to the duty to return
27 firearms to innocent owners pursuant to [section on forfeiture; amend that section if
28 necessary to require the return of firearms to innocent owners], all firearms that are
29 forfeited or abandoned to any law enforcement agency of this state or a political
30 subdivision of this state, including the State Department of Game and Inland Fisheries [or
31 equivalent], or that are otherwise acquired by the state or a political subdivision of the
32 state and are no longer needed, shall be disposed of as provided in this section.

33

34 (B) Prior to the disposal of any firearm that has been forfeited or abandoned to the state
35 or a political subdivision of the state, the agency with custody of the firearm shall use
36 their best efforts to determine if the firearm has been lost by, stolen, or otherwise
37 unlawfully obtained from an innocent owner, and if so, shall return the firearm to its
38 innocent owner, if ascertainable, unless that person is ineligible to receive or possess a
39 firearm under state or federal law.

40

41 (C) Except as provided in subsection (B) or (D), the agency shall dispose of the firearms
42 that it receives under subsection (A) by sale at public auction to persons licensed as
43 firearms collectors, dealers, importers, or manufacturers under the provisions of 18
44 U.S.C. §§ 921 et seq. [and citation to state law requiring licensing of firearm dealers, if
45 any] and authorized to receive such firearms under the terms of such license.

46

- 47 (1) The auctions required by this subsection may occur online on a rolling basis or
48 at live events but in no event shall occur less frequently than once every six
49 months during any time the agency has an inventory of saleable firearms.
50
- 51 (2) The agency shall retain only such proceeds as are necessary to cover the costs
52 of administering this section, with any surplus to be transferred to the general
53 fund of the jurisdiction in which the agency is located, provided that an agency
54 may be reimbursed for any firearms formerly in use by the agency that are sold
55 under this section.
56
- 57 (3) Employees of the agency shall not be eligible to bid on the firearms at an
58 auction conducted under this section, and except for the costs of administration
59 authorized under subdivision (2) of this subsection, neither the agency nor its
60 employees may retain any proceeds from any sale required by this section, nor
61 may the agency or its employees retain any firearm required to be sold under this
62 section.
63
- 64 (D) The requirements of subsection (C) shall not apply to a firearm if no bids from
65 eligible recipients are received within six months from when bidding opened on the item
66 or that the chief of police, agency director, or designee of such official certifies is unsafe
67 for use because of wear, damage, age, or modification. Any such firearm shall at the
68 discretion of the chief of police, agency director, or designee of such official be
69 transferred to the state crime laboratory [or equivalent] for training or experimental
70 purposes or to a museum or historical society that displays such items to the public and is
71 lawfully eligible to receive the item or be destroyed.
72
- 73 (E) All agencies subject to the provisions of this section shall keep records of the firearms
74 acquired and disposed of as herein provided, as well as the proceeds of the sales thereof
75 and the disbursement of such proceeds, and shall maintain these records for not less than
76 ten (10) years from the date on which a firearm is disposed of or on which a disbursement
77 of funds is made, as the case may be.
78
- 79 (F) Neither the state nor any political subdivision of the state, nor any of their officers,
80 agents, and employees, shall be liable to any person, including the purchaser of a firearm,
81 for personal injuries or damage to property arising from the sale of a firearm under
82 subsection (C) of this section, unless the state or political subdivision acted with gross
83 negligence or recklessness.
84
- 85 **Section 4. {Severability Clause}**
86
- 87 **Section 5. {Repealer Clause}**
88
- 89 **Section 6. {Effective Date}**
90
- 91



MOTION

Mr. Lee McGrath, *Institute for Justice*, proposes to repeal and replace the ALEC **Comprehensive Asset Forfeiture Act** by striking the following:

Comprehensive Asset Forfeiture Act

Summary

~~Over the past two decades, federal, state, and local law enforcement agents have relied increasingly on asset forfeiture law “to take the profits out of crime.” Forfeiture has been an effective tool in the war on crime, but it has also led to corruption and abuse and to many innocent owners losing their property in the name of fighting crime. Those abuses have resulted in substantial media attention and have led many to take a closer look at this body of law, especially since its principles and practices are so foreign to the rule of law and the American system of justice.~~

~~Reforming ALEC’s existing model bill on asset forfeiture to include common sense protections that are vital to provide American citizens the protection that is guaranteed under our Constitution will help prevent future abuses of a system that law enforcement needs in its efforts to fight this country’s war on drugs.~~

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title.} This Act may be cited as the Comprehensive Asset Forfeiture Act.

Section 2. {Creation of General Rules Relating to Civil Forfeiture Proceedings.}

(a)(1) In any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the agency conducting a seizure of property must give written notice to interested parties, such notice shall be given as soon as practicable and in no case more than 60 days after the later of the date of the seizure or the date the identity of the interested party is first known or discovered by the agency, except that the court may extend the period for filing a notice for good cause shown.

(2) A person entitled to written notice in such proceeding to whom written notice is not given may on motion void the forfeiture with respect to that person's interest in the property, unless the agency shows—

- (i) good cause for the failure to give notice to that person; or
- (ii) that the person otherwise had actual notice of the seizure.

~~(3) If the Government does not provide notice of a seizure of property in accordance with subparagraph (a)(1), it shall return the property and may not take any further action to effect the forfeiture of such property.~~

~~(b)(1) Any person claiming property seized in a nonjudicial forfeiture proceeding may file a claim with the appropriate official after the seizure.~~

~~(2) A claim under subparagraph (a)(1) may not be filed later than 30 days after~~

- ~~(i) the date of final publication of notice of seizure; or~~
- ~~(ii) in the case of a person entitled to written notice, the date that notice is received.~~

~~(3) The claim shall state the claimant's interest in the property.~~

~~(4) Not later than 90 days after a claim has been filed, the Attorney General shall file a complaint for forfeiture in the appropriate court or return the property, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.~~

~~(5) If the Government does not file a complaint for forfeiture of property in accordance with subparagraph (b)(4), it shall return the property and may not take any further action to effect the forfeiture of such property.~~

~~(6) Any person may bring a claim under subparagraph (a)(1) without posting bond with respect to the property that is the subject of the claim.~~

~~(c)(1) In any case where the Government files in the appropriate State district court a complaint for forfeiture of property, any person claiming an interest in the seized property may file a claim asserting such person's interest in the property within 30 days of service of the Government's complaint or, where applicable, within 30 days of alternative publication notice.~~

~~(2) A person asserting an interest in seized property in accordance with subparagraph (a)(1) shall file an answer to the Government's complaint for forfeiture within 20 days of the filing of the claim.~~

~~(d)(1) If the person filing a claim is financially unable to obtain representation by counsel, the court may appoint counsel to represent that person with respect to the claim.~~

~~(2) In determining whether to appoint counsel to represent the person filing the claim, the court shall take into account such factors as—~~

- (i) the claimant's standing to contest the forfeiture; and
- (ii) whether the claim appears to be made in good faith or to be frivolous.

(3) The court shall set the compensation for that representation, which shall be equivalent to that provided for other court appointed representation under state law.

(e) In all suits or actions brought under any civil forfeiture statute for the civil forfeiture of any property, the burden of proof is on the State Government to establish, by clear and convincing evidence, that the property is subject to forfeiture.

(f)(1) An innocent owner's interest in property shall not be forfeited under any civil forfeiture statute.

(2) With respect to a property interest in existence at the time the illegal conduct giving rise to forfeiture took place, the term 'innocent owner' means an owner who—

- (i) did not know of the conduct giving rise to forfeiture; or
- (ii) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

(3) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term 'innocent owner' means a person who, at the time that person acquired the interest in the property, was—

- (i)(I) a bona fide purchaser or seller for value (including a purchaser or seller of goods or services for value); or
- (II) a person who acquired an interest in property through probate or inheritance; and
- (ii) at the time of the purchase or acquisition reasonably without cause to believe that the property was subject to forfeiture.

(4) Where the property subject to forfeiture is real property, and the claimant uses the property as the claimant's primary residence and is the spouse or minor child of the person who committed the offense giving rise to the forfeiture, an otherwise valid innocent owner claim shall not be denied on the ground that the claimant acquired the interest in the property—

- (i) in the case of a spouse, through dissolution of marriage or by operation of law; or
- (ii) in the case of a minor child, as an inheritance upon the death of a parent, and not through a purchase. However, the claimant must establish, in accordance with subparagraph (e)(3), that at the time of the acquisition of the property interest, the claimant was reasonably without cause to believe that the property was subject to forfeiture.

(g) For the purposes of paragraph (f)—

- (1) ways in which a person may show that such person did all that reasonably can be expected may include demonstrating that such person, to the extent permitted by law—
 - (i) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or has occurred; and
 - (ii) in a timely fashion revoked or attempted to revoke permission for those engaging in such conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property; and
- (2) in order to do all that can reasonably be expected, a person is not required to take steps that the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

(h) As used in this subsection:

- (1) The term 'civil forfeiture statute' means any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense.
- (2) The term 'owner' means a person with an ownership interest in the specific property sought to be forfeited, including a leasehold, lien, mortgage, recorded security device, or valid assignment of an ownership interest. Such term does not include
 - (i) a person with only a general unsecured interest in, or claim against, the property or estate of another;
 - (ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or

~~(iii) a nominee who exercises no dominion or control over the property.~~

~~(i)(1) A claimant under subsection (h) is entitled to immediate release of seized property if—~~

~~(i) the claimant has a possessory interest in the property;~~

~~(ii) the continued possession by the State Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless; and~~

~~(iii) the claimant's likely hardship from the continued possession by the State Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceeding.~~

~~(2) A claimant seeking release of property under this subsection must request possession of the property from the appropriate official, and the request must set forth the basis on which the requirements of paragraph (i)(1) are met.~~

~~(3) If within 10 days after the date of the request the property has not been released, the claimant may file a motion or complaint in any district court that would have jurisdiction of forfeiture proceedings relating to the property setting forth—~~

~~(i) the basis on which the requirements of paragraph (i)(1) are met; and~~

~~(ii) the steps the claimant has taken to secure release of the property from the appropriate official.~~

~~(4) If a motion or complaint is filed under paragraph (i)(3), the district court shall order that the property be returned to the claimant, pending completion of proceedings by the State Government to obtain forfeiture of the property, if the claimant shows that the requirements of paragraph (i)(1) have been met. The court may place such conditions on release of the property as it finds are appropriate to preserve the availability of the property or its equivalent for forfeiture.~~

~~(5) The district court shall render a decision on a motion or complaint filed under paragraph (i)(3) no later than 30 days after the date of the filing, unless such 30-day limitation is extended by consent of the parties or by the court for good cause shown.~~

Section 3. {Compensation for Damage to Seized Property.}

~~(a) The State shall be liable for real costs of any claim based on the destruction, injury, or loss of goods, merchandise, or other property, while in the possession of any officer of [customs or] excise or any other law enforcement officer, if the property was seized for the purpose of forfeiture under any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense but the interest of the claimant is not forfeited'.~~

~~(b) The Attorney General may settle, for not more than \$50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer who is employed by the State and acting within the scope of his or her employment.~~

~~(2) LIMITATIONS~~ The Attorney General may not pay a claim under paragraph (1) that-

- ~~(A) is presented to the Attorney General more than 1 year after it occurs; or~~
- ~~(B) is presented by an officer or employee of the United States Government and arose within the scope of employment.~~

Section 4. {Pre-Judgment and Post-Judgment Interest.}

(a) INTEREST

~~(1) POST JUDGMENT~~ Upon entry of judgment for the claimant in any proceeding to condemn or forfeit property seized or arrested under any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense, the State shall be liable for post-judgment interest as would have been earned in accordance with current interest rates.

~~(2) PRE JUDGMENT~~ The State shall not be liable for pre-judgment interest in a proceeding under any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense, except that in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale, the State shall disgorge to the claimant any funds representing—

- ~~(i) interest actually paid to the State from the date of seizure or arrest of the property that resulted from the investment of the property in an interest bearing account or instrument; and~~

~~(ii) for any period during which no interest is actually paid, an imputed amount of interest that such currency, instruments, or proceeds would have earned in accordance with the current interest rate.~~

~~(3) LIMITATION ON OTHER PAYMENTS~~ The State shall not be required to disgorge the value of any intangible benefits in a proceeding under any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense nor make any other payments to the claimant not specifically authorized by this subsection.'

Section 5. {Forfeiture of Property for Commission of Criminal Offense—Procedure Disposition.}

~~(a) Money, real property, vehicles and other conveyances, or tangible and intangible personal property of any kind that is used in connection with the commission of a criminal offense provided for in the {name of state} statutes is not subject to forfeiture unless it is owned by a person convicted of a criminal offense, it is ordered forfeited as part of the sentence imposed upon conviction, and a section of {name of state} law specifically provides for forfeiture as part of the sentence imposed upon conviction. A civil forfeiture proceeding may not be used to proceed against property suspected of being used in connection with the commission of a criminal offense.~~

~~(b) Unless another section of {name of state} statute specifically provides a procedure for disposition of property forfeited as part of the sentence imposed upon conviction of a criminal offense specified in that section, the forfeited property must be disposed of as provided in this section.~~

~~(c) The sheriff shall seize the forfeited property within ten (10) days after the conviction.~~

~~(d) Forfeiture of property encumbered by a security interest is subject to the secured person's interest if the secured person did not know and could not have reasonably known of the unlawful possession, use, or other act in connection with the commission of the crime.~~

~~(e) If proper proof of a security interest is presented to the sheriff, the sheriff shall release the property to the secured person if the amount due to the person is equal to or greater than the value of the property.~~

~~(f) Property not released to a secured person under subsection (e) must, except as provided in subsection (g), be sold by the sheriff at a public auction in the same manner as provided by law for the sale of property under execution. The property may not be sold to an officer or employee of a law enforcement agency. The proceeds of the sale must be distributed first to a secured person who has presented proper proof of the security~~

~~interest to the sheriff, and any remaining proceeds must be used to [insert appropriate action].~~

~~(g) Property that is unlawful to produce or possess must be destroyed by the sheriff if it cannot be sold to a person or entity that can lawfully possess it.~~

Section 6. {Applicability.}

~~(a) IN GENERAL Unless otherwise specified in this Act, this Act will apply with respect to claims, suits, and actions filed on or after the date of the enactment of this Act.~~

(b) EXCEPTIONS-

~~(1) The standard for the required burden of proof set forth in section 2, shall apply in cases pending on the date of the enactment of this Act.~~

~~(2) The amendment made by section 4 shall apply to any judgment entered after the date of the enactment of this Act.~~

Section 7. {Severability Clause}

Section 8. {Repealer Clause}

*Adopted by ALEC's Criminal Justice Task Force at the States and Nation Policy Summit
December 9, 1999. Approved by full ALEC Board of Directors January, 2000.*

DRAFT

Asset Forfeiture Process and Private Property Protection Act

To replace “ALEC Comprehensive Asset Forfeiture Act” (2000)

Summary

Civil forfeiture laws represent one of the most serious assaults on private property rights in the nation today. Under civil forfeiture, police and prosecutors can seize your car or other property, sell it and use the proceeds to fund agency budgets—often without so much as charging you with a crime. This model improves and expands upon ALEC’s “Comprehensive Asset Forfeiture Act” (2000). The “Asset Forfeiture Process and Private Property Protection Act” protects individual liberty and property rights by standardizing forfeitures across all crimes, simplifying procedures, and addressing counterproductive incentives in the law that distort policing priorities. Importantly, this model does not change the authority of law enforcement to seize property suspected of being associated with crime or limit in any way prosecutors’ ability to charge and prosecute suspected criminals. Moreover, it ensures that those individuals proven guilty of a crime do not keep the fruits of their crime. In doing so, it strikes the right balance between the individual property rights and public safety.

Legislation

Section 1. {Title}

This act may be cited as the “Asset Forfeiture Process and Private Property Protection Act”

Section 2. {Definitions} As used in this Act:

(A) "Contraband" means goods that are unlawful to import, export or possess.

(B) "Conveyance" means a device used for transportation and includes a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term does not include property that is stolen or taken in violation of the law.

(C) "Instrumentality" means property otherwise lawful to possess that is used in an offense. An "instrumentality" includes a tool, a firearm, a conveyance, a computer, computer software, a telecommunications device, money, and other means of exchange.

(D) A “law subject to forfeiture” is a State law that carries a felony penalty and that explicitly includes forfeiture as a punishment or sanction for the offense.

Section 3. {Legislative Intent}.

(A) This Act intends to:

(1) deter criminal activity by reducing its economic incentives:

- 48
49 (2) increase the pecuniary loss from criminal activity; and
50
51 (3) protect against the wrongful forfeiture of property.

52 **Section 4. {Exclusivity}**

53 (A) This Act sets out the exclusive process governing forfeitures in the state of {insert
54 state} and supersedes any conflicting provisions in law.

55 **Section 5. {Criminal Asset Forfeiture}**

56 (A) When a person is convicted of violating a law subject to forfeiture, the court,
57 consistent with this Act, shall order the person to forfeit:

- 58 (1) proceeds and property the person derived directly from the commission of
59 the crime;
60 (2) proceeds and property directly traceable to proceeds and property derived
61 directly from the commission of the crime; and
62 (3) instrumentalities the person used in the commission of the crime.

63 **Section 6. {Conviction Required; Standard of Proof}**

64 (A) Property used in or derived from the violation of a law is subject to forfeiture only if
65 (1) the violation is of a law subject to forfeiture and
66 (2) the violation is established by proof of a criminal conviction.

67 (b) The State shall establish that seized property is forfeitable under section (5) by clear
68 and convincing evidence.

69 **Section 7. {No Civil Asset Forfeiture}**

70 (A) There is no civil asset forfeiture.

71 **Section 8. {Rule of lenity}**

72 (A) The court shall resolve any ambiguity in this chapter relating to the State taking
73 property through asset forfeiture in favor of the property owner.

74 **Section 9. {Court-appointed Counsel}**

75 (A) If a court determines that a person opposing forfeiture is financially unable to obtain
76 representation by counsel, the court, at the request of the person, shall insure that the

95 person is represented by an attorney at the State's expense. The attorney shall submit a
96 statement of reasonable fees and costs to the court in a manner directed by the court.
97

98 **Section 10. {Authorization to Use Forfeiture}**

100 (A) Except for federal forfeitures consistent with section 39, forfeiture may occur only
101 pursuant to an explicit grant of authority in State law. An ordinance enacted by a county,
102 municipality, or other unit of government authorizing forfeiture is not valid.
103

104 (B) A prosecutor having jurisdiction over a law subject to forfeiture has authority to
105 pursue forfeiture.
106

107 **Section 11. {Property Subject to Forfeiture; Contraband}**
108

109 (A) Property subject to forfeiture is limited to:
110

111 (1) land, buildings, containers, conveyances, equipment, materials, products,
112 money, securities, and negotiable instruments; and
113

114 (2) ammunition, firearms, and ammunition-and-firearm accessories found on
115 or in proximity to a person who violated a law subject to forfeiture or in a
116 conveyance used to violate a law subject to forfeiture.
117

118 (B) No property right exists in contraband, including scheduled drugs without a valid
119 prescription. Contraband is subject to seizure and must be disposed of according to State
120 law. Contraband is not subject to forfeiture under this chapter.
121

122 **Section 12. {Substitution of Assets for Unreachable Property}**
123

124 (A) Upon the State's motion following conviction, the court may order the forfeiture of
125 substitute property owned fully by the defendant up to the value of unreachable property
126 only if the State proves by a preponderance of the evidence that the defendant
127 intentionally transferred, sold, or deposited property with a third party to avoid the
128 court's jurisdiction.
129

130 **Section 13. {No Additional Remedies}**
131

132 (A) Except as otherwise provided in this chapter, the State may not seek additional
133 remedies including but not limited to personal money judgments.
134

135 **Section 14. {No Joint-and-Several Liability; Pro Rata Forfeitures}**
136

137 (A) A defendant is not jointly and severally liable for forfeiture awards owed by other
138 defendants.
139

140 (B) When ownership is unclear, a court may order each defendant to forfeit property on a
141 pro rata basis proportional to the proceeds that each defendant personally received.

PROCESS

Section 15. {Designating Property Subject to Forfeiture}

(A) Property subject to forfeiture must be identified by the State in an indictment of a grand jury or by information in the court in any related criminal proceeding in which a person with an interest in the property has been simultaneously charged with a violation of a law subject to forfeiture.

(B) The indictment or information must specify the time and place of the violation, identify the property, and particularly describe its use in the commission of the crime or derivation from the commission of the crime.

(C) At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charge alleging that property is subject to forfeiture.

Section 16. {Seizure with Process}

(A) At the request of the State, a court may issue an ex parte preliminary order to seize or secure property for which forfeiture is sought and to provide for its custody. Application, issuance, execution, and return are subject to State law.

Section 17. {Seizure without Process}

(A) Property subject to forfeiture may be seized without a court order if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the State; or

(3) the State has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property and that the property is forfeitable under section 5.

Section 18. {Receipt for Seized Property}

(A) When property is seized, the law enforcement officer shall give an itemized receipt to the person in possession of the property; or in the absence of any person, leave a receipt in the place where the property was found if reasonably possible.

Section 19. {Bill of Particulars}

187 (A) A motion for a bill of particulars may be made before arraignment, within 90 days
188 after arraignment, or at any later time that the court permits. A bill of particulars may be
189 amended at any time subject to conditions that justice requires.

190

191 **Section 20. {Title}**

192

193 (A) At the time of seizure or entry of a restraining order, the State acquires provisional
194 title to the seized property. Provisional title authorizes the State to hold and protect the
195 property.

196

197 (B) Title to the property vests with the State when the trier of fact renders a final
198 forfeiture verdict and relates back to the time when the State acquired provisional title.
199 However, this title is subject to claims by third parties adjudicated under this chapter.

200

201 **Section 21. {Storage}**

202

203 (A) When property is seized, the State shall use reasonable diligence to secure the
204 property and prevent waste.

205

206 **Section 22. {Records}**

207

208 (A) A State entity having custody of seized property that is subject to forfeiture shall
209 maintain the following records:

210

- 211 (1) the exact kinds, quantities, and forms of the property;
- 212 (2) the date and from whom it received the property;
- 213 (3) the violation of law that subjected the property to seizure;
- 214 (4) the liens against the seized property;
- 215 (5) the make, model, and serial number of each seized firearm;
- 216 (6) to whom and when the notice of forfeiture was given;
- 217 (7) to whom it delivered the property; and
- 218 (8) the date and manner of destruction or disposition of the property.

219

220 (B) The records required under paragraph (A) are subject to the State's freedom of
221 information act.

222

223 **Section 23. {Bond by Owner for Possession}**

224

225 (A) If the owner of property that has been seized seeks its possession before the criminal
226 trial, the owner may post bond or give substitute property in an amount equal to the fair

234 market value of the seized property at the time the bond amount is determined.
235

236 (B) On the posting of bond or the giving of substitute property, the State shall return the
237 seized property to the owner within a reasonable period of time not to exceed 3 business
238 days. The forfeiture action may then proceed against the bond or substitute property as if
239 it were the seized property.

240
241 (C) This section does not apply to property reasonably held for investigatory purposes.
242

243 **Section 24. {Petition for Remission or Mitigation}**

244
245 (A) Prior to the entry of a court's order disposing of the forfeiture action, any person who
246 has an interest in seized property may file with the state's attorney general a petition for
247 remission or mitigation of the forfeiture. The attorney general shall remit or mitigate the
248 forfeiture upon terms and conditions the attorney general deems reasonable if the attorney
249 general finds that:

250
251 (1) the petitioner did not intend to violate the law or

252
253 (2) extenuating circumstances justify the remission or mitigation of the
254 forfeiture.

255
256 **Section 25. {Pretrial Replevin Hearing}**

257
258 (A) Following the seizure of property under this chapter, a defendant or third-party has a
259 right to a pretrial hearing to determine the validity of the seizure.

260
261 (B) The claimant may claim at any time prior to 60 days before trial of the related
262 criminal violation the right to possession of property by motion to the court to issue a writ
263 of replevin.

264
265 (C) The claimant shall file a motion establishing the validity of the alleged right, title, or
266 interest in the property.

267
268 (D) The court shall hear the motion no more than 30 days after the motion is filed.

269
270 (E) The State shall file an answer showing probable cause for the seizure, or cross-
271 motions at least 10 days before the hearing.

272
273 (F) The court shall grant the motion if it finds that (1) it is likely the final judgment will
274 be that the State must return the property to the claimant or (2) the property is the only
275 reasonable means for a defendant to pay for legal representation in the forfeiture or
276 criminal proceeding.

277
278 (G) In lieu of ordering the issuance of the writ, the court may order the State to give
279 security for satisfaction of any judgment, including damages, that may be rendered in the
280 action, or order other relief as may be just.

- 281
- 282 **Section 26. {Discovery}**
- 283
- 284 (A) Discovery is subject to the rules of criminal procedure.
- 285
- 286 **Section 27. {Right to Trial by Jury}**
- 287
- 288 (A) Any party to a forfeiture action has a right to trial by jury.
- 289
- 290 **Section 28. {Trial Proceedings}**
- 291
- 292 (A) A trial related to the forfeiture of property must be held in a single proceeding
293 together with the trial of the related alleged crime unless the defendant moves to bifurcate
294 the trial.
- 295
- 296 (B) The court, upon motion of a defendant, shall separate the trial of the criminal matter
297 against the defendant from the matter related to the forfeiture of property.
- 298
- 299 (C) The court, upon motion of a defendant, shall allow a defendant to waive the right to
300 trial by jury related to the forfeiture of property while preserving the right to trial by jury
301 of any crime alleged.
- 302
- 303 (D) If the court bifurcates the jury trial, the court shall first instruct and submit to the jury
304 the issue of the guilt or innocence of the defendant to be determined by proof beyond a
305 reasonable doubt and shall restrict argument of counsel to those issues.
- 306
- 307 (E) If the court bifurcates the jury trial, each party may introduce evidence in the
308 forfeiture phase that was not introduced in the criminal phase.
- 309
- 310 (F) If the jury finds a defendant guilty of the related criminal offense and the defendant
311 did not waive the right to trial by jury related to the forfeiture, the court shall instruct and
312 submit to the jury the issue of the forfeiture. The court may use interrogatories to address
313 the forfeiture issue.
- 314
- 315 **Section 29. {Proportionality}**
- 316
- 317 (A) Following determination by the trier of fact, the owner may petition the court to
318 determine whether the forfeiture is unconstitutionally excessive under the State or U.S.
319 constitution.
- 320
- 321 (B) The owner has the burden of establishing that the forfeiture is grossly disproportional
322 to the seriousness of the offense by a preponderance of the evidence at a hearing
323 conducted by the court without a jury.
- 324
- 325 (C) In determining whether the forfeiture of an instrumentality is constitutionally
326 excessive, the court shall consider all relevant factors, including, but not limited to:
- 327

- 328 (1) the seriousness of the offense and its impact on the community, including
329 the duration of the activity and the harm caused by the person whose property
330 is subject to forfeiture;
331
- 332 (2) the extent to which the person whose property is subject to forfeiture
333 participated in the offense;
334
- 335 (3) the extent to which the property was used in committing the offense;
336
- 337 (4) the sentence imposed for committing the crime subject to forfeiture; and
338
- 339 (5) whether the offense was completed or attempted.
340

341 (D) In determining the value of the instrumentality subject to forfeiture, the court shall
342 consider relevant factors, including, but not limited to:

- 343 (1) the fair market value of the property;
344
- 345 (2) the value of the property to the person whose property is subject to
346 forfeiture including hardship to the owner if the forfeiture is realized; and
347
- 348 (3) the hardship from the loss of a motor vehicle or other property to family
349 members or others if the property is forfeited assets.
350

351 (e) The court may not consider the value of the instrumentality to the State in determining
352 whether the forfeiture of an instrumentality is constitutionally excessive.

354 **THIRD-PARTY INTERESTS**

357 **Section 30. {Secured Interest}**

359 (A) A bona fide security interest is not subject to forfeiture unless the person claiming a
360 security interest had actual knowledge that the property was subject to forfeiture at the
361 time of the property was seized or restrained under this chapter.

363 (B) A person claiming a security interest bears the burden of establishing that the validity
364 of the interest by a preponderance of the evidence.

366 **Section 31. {Ancillary Hearing of Third-Party Interests}**

368 (A) A person not charged in the indictment or information but who has an interest in
369 property subject to forfeiture may not intervene after the criminal trial has begun.

371 (B) Following the entry of a verdict of forfeiture of property pursuant to this chapter or
372 the entry of a guilty plea in court on the record, the State shall exercise reasonable
373 diligence to identify persons with a potential interest in the property and make reasonable
374 efforts to give notice to potential claimants. The State shall provide written notice of its

375 intent to dispose of the property to any person known or alleged to have an interest in the
376 property exempted from forfeiture under this chapter, including any person potentially
377 making claims for

378 (1) court-ordered child support,
379

380 (2) employment-related compensation or

381 (3) payment of unsecured debts. The notice must also be made by publication in a
382 reasonable geographic area.

383 (C) A person other than the defendant asserting a legal interest in the property, within 60
384 days of the date of the notice, may petition the court for a hearing to adjudicate the
385 validity of the alleged interest in the property. The request for the hearing must be signed
386 by the petitioner under penalty of perjury and state the nature and extent of the
387 petitioner's right, title, or interest in the property; the time and circumstances of the
388 petitioner's acquisition of the right, title, or interest; and any additional facts supporting
389 the petitioner's claim and the relief sought.

390 (D) Upon the filing of a petition, the court shall schedule the hearing as soon as
391 practicable but in no event later than 6 months after the sentencing of any defendant
392 convicted upon the same indictment. The court shall issue or amend a final order of
393 forfeiture in accordance with its determination if, after the hearing, the court determines
394 that:

395 (1) the petitioner has a legal right, title, or interest in the property, and such right,
396 title or interest renders the order of forfeiture invalid in whole or in part because
397 the right, title or interest was vested in the petitioner rather the defendant or was
398 superior to any right, title or interest of the defendant at the time of the property
399 was seized or restrained under this chapter; or

400 (2) the petitioner is a bona fide purchaser for value of the right, title, or interest in
401 the property and was at the time of purchase without cause to believe that the
402 property was subject to forfeiture under this chapter. The State has the burden of
403 proof with respect to the issue of whether the petitioner was without cause to
404 believe that the property was subject to forfeiture at the time of purchase or other
405 acquisition of value.

406 (E) A qualified indigent who wishes to contest the forfeiture of property and appears to
407 have an exempt interest has a right to court-appointed counsel as provided in section 9. In
408 addition, the court shall waive the person's court fees.

409 **Section 32. {Innocent Partial or Joint Owner}**

410 (A) The property of an innocent partial or joint owner may not be forfeited under any
411 forfeiture statute. The process for determining whether a person is an innocent partial or
412 joint owner is set out in this section.

- 422
- 423 (B) A person who has any form of partial or joint interest, including joint tenancy,
424 tenancy in common, or tenancy by the entirety, in property subject to forfeiture existing
425 at the time the illegal conduct giving rise to forfeiture occurred and who claims to be an
426 innocent partial or joint owner shall make a prima facie case that the person has a legal
427 right, title, or interest in the property seized or restrained under this chapter.
- 428
- 429 (C) If paragraph (B) is satisfied and the State seeks to proceed with the forfeiture against
430 the person's ownership interest, the State shall prove by a preponderance of the evidence
431 that the person had actual knowledge of the underlying crime giving rise to the forfeiture
432 or was willfully blind to its commission.
- 433
- 434 (D) If paragraph (C) is satisfied and the person seeks to establish the person's innocent
435 owner status, the person shall show by a preponderance of the evidence that the person
436 did all that reasonably could be expected under the circumstances to prohibit, abate, or
437 terminate the illegal use of the property. The person may show that the person did all that
438 reasonably could be expected by demonstrating, among other things, that the person, to
439 the extent permitted by law:
- 440
- 441 (1) gave timely notice to an appropriate law enforcement agency of information
442 that led the person to know the conduct giving rise to a forfeiture would occur or
443 had occurred; or
- 444
- 445 (2) in a timely fashion revoked or made a good-faith attempt to revoke permission
446 for those engaging in the illegal conduct to use the property or took reasonable
447 actions in consultation with a law enforcement agency to discourage or prevent
448 the illegal use of the property.
- 449
- 450 (3) A person is not required under this paragraph to take steps that the person
451 reasonably believes would be likely to subject the person to physical danger.
- 452
- 453 (E) If paragraph (D) is satisfied, the court shall find that the claimant was not a party to
454 the crime and is an innocent partial or joint owner.
- 455
- 456 (F) A person who acquired an ownership interest in property after the commission of a
457 crime giving rise to the forfeiture has occurred and who claims to be an innocent partial
458 or joint owner, shall make a prima facie case that the person legal right, title, or interest in
459 the property seized or restrained under this chapter.
- 460
- 461 (G) If paragraph (F) is satisfied and the State seeks to proceed with the forfeiture against
462 the person's ownership interest, the State shall prove by a preponderance of the evidence
463 that at the time the person acquired the property interest the person had actual knowledge
464 that the property was subject to forfeiture or was willfully blind to the commission of the
465 crime that subjected the property to forfeiture.
- 466
- 467 (H) If the State fails to meet its burden in paragraph (G), the court shall find that the
468 person was not a party to the crime and is an innocent partial or joint owner.

469

470 (I) An otherwise valid claim under paragraph (F) may not be denied on the grounds that
471 the person gave nothing of value in exchange for the property if:

472

473 (1) the property is the person's primary residence;

474

(2) depriving the person of the property would deprive the person of the means to maintain reasonable shelter in the community for the person and all dependents residing with the person;

478

479 (3) the property is not, and is not traceable to, the proceeds of any criminal
480 offense; and

481

482 (4) the person acquired interest in the property through marriage, divorce, or legal
483 separation, or the person was the spouse or legal dependent of someone whose
484 death resulted in the transfer of the property to the person through inheritance or
485 probate, except that the court shall limit the value of any real property interest for
486 which innocent ownership is recognized under this paragraph to the value
487 necessary to maintain reasonable shelter in the community for the person and all
488 dependents residing with the person.

489

490 (J) If the innocent joint or partial owner's claim is established under this section, the State
491 shall relinquish all claims of title to the property that may have vested with it.

492

492
493 (K) If the court determines that an innocent joint or partial owner has any form of partial
494 or joint interest in a conveyance subject to forfeiture related to operating a conveyance
495 while impaired, the court may order that the innocent joint or partial owner participate in
496 the ignition interlock device program under State law as a condition of ordering the
497 device be returned to the innocent owner.

498

499 (L) If the court determines that an innocent joint or partial owner has any form of partial
500 or joint interest in property, other than property described in paragraph (K), the court
501 shall enter an appropriate order reflecting the innocent owner's preference for:

502

503 (1) severing the property:

504

504
505 (2) transferring the property to the State with a provision that the State
506 compensate the innocent owner to the extent of the owner's ownership interest
507 once a final order of forfeiture has been entered and the property has been reduced
508 to liquid assets; or

509

510 (3) permitting the innocent owner to retain the property subject to a lien in favor
511 of the State to the extent of the forfeitable interest in the property.

512

POSTFORFEITURE

515 Section 33. {Sale of Property}

- 516
517 (A) If a trier of fact finds that property is to be forfeited, the court shall order the State to:
518
519 (1) return stolen property to its owner;
520
521 (2) sell all other firearms, ammunition and firearm accessories to licensed
522 firearms dealers in a commercially reasonable manner; and
523
524 (3) sell other property in a commercially reasonable manner.
525

526 **Section 34. {Prohibition on Retaining Property; Sale Restrictions}**
527

528 (A) The law enforcement agency that seized property forfeited under this chapter may not
529 retain it for its own use or sell it directly or indirectly to any employee of the agency, to a
530 person related to an employee by blood or marriage, or to another law enforcement
531 agency.

532 **Section 35. {Disposition of Proceeds}**
533

534 (A) Proceeds seized and proceeds from the sale of forfeited assets may be distributed
535 only following a court order. The court shall order the funds be used to pay, in order of
536 priority, for the following purposes:

- 537
538 (1) storage and sale expenses;
539
540 (2) satisfaction of valid liens against the property;
541
542 (3) restitution ordered to the victim of the criminal offense;
543
544 (4) reimbursement of investigation costs excluding salaries that the law
545 enforcement agency incurred in the seizure of the assets subject to the
546 forfeiture action;
547
548 (5) court-ordered child support obligations;
549
550 (6) claims for compensation by the defendant's employees; and
551
552 (7) claims for compensation by defendant's unsecured creditors.

553
554 (B) All remaining funds must be deposited into the State's treasury and credited to the
555 general fund.

556 **Section 36. {Reporting}**
557

558 (A) For each forfeiture action occurring in the State regardless of the authority for it, the
559 participating law enforcement agency and prosecutor shall provide a written record of the
560 forfeiture incident to the State reporting agency.

563
564 (B) The record must include the amount forfeited, the underlying crime or conduct, its
565 date, and whether the property had a lien against it. The record must also list the number
566 of firearms forfeited and the make, model, and serial number of each firearm forfeited.
567 The record must indicate how the property was disposed.

568
569 (C) The law enforcement agency and the prosecutor shall report to the State reporting
570 agency all instances in which property seized for forfeiture is returned to its owner either
571 because forfeiture is not pursued or for any other reason.

572
573 (D) For forfeitures resulting from the activities of multi-jurisdictional law enforcement
574 entities, each entity on its own behalf shall report the information required in this section.

575
576 (E) The State reporting agency may require information not specified in this section to be
577 reported as well.

578
579 (F) Reports must be made on a monthly basis in a manner prescribed by the State
580 reporting agency.

581
582 (G) The State reporting agency shall report annually to the legislature and the public on
583 the nature and extent of forfeitures.

584
585 (H) The State reporting agency shall include in its report required under paragraph (G)
586 recommended changes to forfeiture law to better ensure that forfeiture proceedings are
587 handled in a manner that is fair to innocent property owners, secured interest holders,
588 citizens, and taxpayers.

589
590 (I) The State reporting agency shall include in its report required under paragraph (G)
591 information on law enforcement agencies and prosecutorial offices not in compliance
592 with this section and shall order the State to withhold payment of any funds to those
593 agencies and offices until compliance is achieved.

MISCELLANEOUS PROVISIONS

Section 37. {Return of Property, Damages, and Costs}

599 (A) The State shall return property to the owner within a reasonable period of time not to
600 exceed 3 business days after a court finds that:

601

602 (1) the owner had a bona fide security interest;

603

604 (2) the owner was an innocent owner;

605

606 (3) charges against the owner were dismissed; or

607

608 (4) the owner was found not guilty of the criminal charge that is the basis for
609 the forfeiture action.

610
611 (B) If property returned under paragraph (A) has been damaged, the owner may make a
612 claim in small claims court or court for the damages to the seized property against the
613 agency that seized the property.

614
615 (C) The State is responsible for any storage fees and related costs applicable to property
616 returned under paragraph (A).

617
618 **Section 38. {Penalty for Violations}**

619
620 (A) Any person acting under color of law, official title, or position who takes any action
621 intending to conceal, transfer, withhold, retain, divert, or otherwise prevent any proceeds,
622 conveyances, real property, or any things of value forfeited under the law of the State or
623 the United States from being applied, deposited, used, or returned to the owner in
624 accordance with this chapter is subject to a civil penalty in an amount of three times the
625 value of the forfeited property concealed, transferred, withheld, retained, or diverted.

626
627 (B) Any taxpayer to the State has standing to challenge in court any action contrary to
628 this Act.

629
630 **Section 39. {Interaction with Federal Government}**

631
632 (A) No unit of State government may transfer a criminal investigation or proceeding to
633 the federal government to circumvent State forfeiture law.

634
635 (B) For a State government unit to transfer a criminal investigation or proceeding that
636 includes forfeiture to the federal government, a State court shall affirmatively find that:

637
638 (1) the suspected criminal activity giving rise to the forfeiture is interstate in
639 nature and sufficiently complex to justify the transfer; or

640
641 (2) the seized property is forfeitable only as a violation of federal law.

642
643 (C) All funds paid by the federal government must be deposited into the State's treasury.
644 The State shall credit:

645
646 (1) the State government unit involved with the federal government sufficiently to
647 reimburse it for investigation costs, excluding salaries, that the State government
648 unit incurred related to the seizure of the assets subject to the forfeiture action and
649 (2) the remainder to the general fund.

650
651 (D) No unit of State government may accept from the federal government any
652 instrumentality or payment of proceeds not permitted by paragraph (C).

653
654 (E) The State government unit shall report all transfers to the federal government of an
655 investigation or criminal proceeding that involves forfeiture per the reporting
656 requirements in section 36.

- 657
658 (F) Any taxpayer has standing to challenge in court the receipt of any proceeds or
659 instrumentality by a State government unit from the federal government contrary to
660 paragraphs (C) and (D).
- 661
662 **Section 40. {Attorneys' Fees}**
- 663
664 (A) In any forfeiture proceeding under this chapter in which the claimant prevails, the
665 State is liable for:
- 666 (1) reasonable attorney fees and other litigation costs reasonably incurred by
667 the claimant;
- 668 (2) postjudgment interest; and
- 669
670 (3) in cases involving currency, other negotiable instruments, or the proceeds
671 of an interlocutory sale:
672 (a) interest actually paid to the State from the date of seizure of the
673 property that resulted from the investment of the property in an
674 interest-bearing account or instrument; and
675 (b) an imputed amount of interest that the currency, instruments, or
676 proceeds would have earned at the rate applicable to the 30-day
677 U.S. Treasury Bill, for any period during which no interest was
678 paid (not including any period when the property reasonably
679 was in use as evidence in an official proceeding or in
680 conducting scientific tests for the purpose of collecting
681 evidence), commencing 15 days after the property was seized
682 by a law enforcement agency.
- 683
684
685
686 **Section 41. {Severability clause}**
- 687
688 **Section 42. {Repealer clause}**
- 689
690 **Section 43. {Effective date}**

1 **DRAFT Criminal Offense Justification Act**

2

3 ***Summary***

4

5 This Act requires justification for enacting new criminal offenses or making changes to
6 existing criminal offenses. The Act would require new criminal laws to take into account
7 the crime's prevalence, relation to current laws, and similarity to existing offenses.

8

9 ***Legislation***

10

11 **{Title, enacting clause, etc.}**

12

13 **Section 1. {Title}**

14

15 This Act may be cited as the "Criminal Offense Justification Act"

16

17 **Section 2. {Legislative Intent}**

18

19 (A) To prevent the proliferation of unnecessary criminal laws or changes to existing
20 criminal laws.

21

22 **Section 3. {Requirements of New or Altered Criminal Laws}**

23

24 (A) Any legislative measure which creates a new criminal offense, increases or decreases
25 the crime classification of an existing criminal offense, or changes an element of an
26 existing offense that creates a new factual basis for the offense must include

27

28 (1) A description of the wrongful conduct and harms that the legislative measure
29 is intended to address, including a description of the inadequacies of existing
30 law to address the wrongful conduct and harms;

31

32 (2) A description of the elements of the new criminal offense, or a description of
33 the new, amended, or additional elements of an existing crime, and a
34 description of how each of the criminal offense's mens rea or criminal-intent
35 requirement in the crime should be interpreted and applied to each element of
36 the crime;

37

38 (3) An analysis of whether the wrongful conduct covered by the new criminal
39 offense, or by changes to an existing criminal offense, may be charged as a
40 crime under current [insert state] law or addressed by civil law or non-
41 criminal administrative rules and regulations;

42

43 (4) A comparison of the proposed crime classification to the crime classification
44 of similar types of offenses;

- 46 (5) An analysis of the current and anticipated future prevalence of the wrongful
47 conduct that the proposed new criminal offense, or changes to an existing
48 criminal offense, intends to address; and
49
- 50 (6) An analysis of the legislative measure's expected fiscal impact on state and
51 local law enforcement, prosecutorial and defender services, courts, probation
52 services, and prison supervision personnel and populations, and an analysis of
53 how any costs associated with the legislative measure will be paid.

54
55 **Section 4. {Severability Clause}**

56
57 **Section 5. {Repealer Clause}**

58
59 **Section 6. {Effective Date}**

1 **DRAFT Resolution in Support of Appropriate Disclosure Requirements**

2
3 ***Summary***

4
5 This Resolution recognizes that disclosure requirements regarding contributions to candidates,
6 political parties, and political action committees (PACs) should only apply to large, and not
7 small, contributions. This Resolution also recognizes that disclosure requirements should not
8 apply to trade and professional associations and nonprofit organizations that do not primarily
9 attempt to influence elections.

10 ***Model Resolution***

11 **WHEREAS**, appropriate, meaningful disclosure requirements on large contributions to
12 candidates, political parties, and political action committees (PACs) allow the public and the
13 press to monitor elected officials and the government; and

14 **WHEREAS**, because small contributions pose no threat of corruption to the political process or
15 undue influence, disclosure of small contributions provides little meaningful information to
16 voters regarding interests supporting candidates; and

17 **WHEREAS**, disclosure of contributor information can make individuals vulnerable to
18 harassment, intimidation, and retribution from those who disagree with a person's position on an
19 issue; and

20 **WHEREAS**, disclosure of contributor information enables candidates, interest groups, and the
21 media to focus on trying to associate political opponents with unpopular persons and groups
22 rather than engaging in substantive debates or reporting on the relative strengths of differing
23 ideological and policy positions; and

24 **WHEREAS**, when disclosure requirements are extended to trade and professional associations
25 and nonprofit organizations not primarily engaged in election-related speech, they are both an
26 affront to the right to private association and a danger to members and donors; and

27 **WHEREAS**, compelled disclosure of members and donors to organizations that are not
28 primarily engaged in election-related speech misleads the public by incorrectly identifying
29 persons responsible for funding political ads; and

30 **WHEREAS**, burdensome disclosure requirements negatively impact underfunded campaigns
31 and inexperienced candidates who lack the financial and compliance resources necessary to
32 abide by onerous filing and reporting conditions; and

33 **WHEREAS**, a reasonable disclosure threshold permits the public to see who is making
34 substantial contributions to elected officials while avoiding unnecessary disclosure that would
35 violate the privacy of citizens, in order to reveal contributions that pose no threat of corruption or
36 undue influence; and

46 **THEREFORE, BE IT RESOLVED** that the American Legislative Exchange Council (ALEC),
47 for the reasons above, opposes efforts at the federal, state, and local level that would extend
48 beyond requiring disclosure of large contributions to candidates, political parties, and PACs to
49 mandate excessive disclosure of small political donations to those entities.

50
51 **BE IT FURTHER RESOLVED** that disclosure requirements should not apply to trade and
52 professional associations and nonprofit organizations that do not primarily attempt to influence
53 elections.

1 **DRAFT ALEC Principles of Legislative Transparency**

2

3 ALEC affirms that transparency and public disclosure in the legislative process is vital to
4 a representative democracy. With one of the fundamental goals of public hearings being
5 to respectfully hear from the public so that citizens are provided the opportunity to
6 comment on proposed changes to state law, lawmakers should strive to provide adequate
7 notice before public hearings or votes occur so that citizens are able to participate in the
8 legislative process in a meaningful way.

9

10 **Guiding principles of legislative transparency**

11 The fundamental principles presented here provide guidance for a transparent legislative
12 process to help inform the debate while providing citizens the opportunity to be heard on
13 the laws that will impact their lives.

- 14
- 15 • **Details of bills should be publicly available before legislative action** – Before a
16 legislative committee or body of the Legislature takes action on legislation, the
17 details being considered should be made publicly available with as much advance
18 notice as possible. Preferably at least seventy-two hours notice of bill details and
19 planned legislative action should be provided.

20

 - 21 • **Bills should receive a public hearing before legislative action is taken** – To
22 help ensure adequate public debate, legislative actions should not take place on
23 bills until the version being acted on has been subject to a public hearing that was
24 scheduled with adequate public notice.

25

 - 26 • **Final passage of bills should be delayed until adequate time has been
27 provided for public review** – Before a body of the Legislature takes action on a
28 bill for final passage, the details should be made available to lawmakers and the
29 public for at least twenty-four hours beforehand.

30

 - 31 • **Bills should not combine unrelated subjects or utilize placeholder titles** –
32 Lawmakers should keep bills focused on germane topics and not utilize blank or
33 placeholder titles that deprive the public from knowing the full details of a
34 proposal until after the opportunity for public hearing and comment has occurred.
35 The public should be provided the opportunity to comment on the actual proposed
36 language and details to be considered.

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Public Safety & Elections Task Force
As of 6/29/2011

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Mission Statement

The American Legislative Exchange Council's mission is...

To advance the Jeffersonian Principles of free markets, limited government, federalism, and individual liberty through a nonpartisan public-private partnership among America's state legislators, concerned members of the private sector, the federal government, and the general public.

To promote these principles by developing policies that ensure the powers of government are derived from, and assigned to, first the People, then the States, and finally the Federal Government.

To enlist state legislators from all parties and members of the private sector who share ALEC's mission.

To conduct a policy making program that unites members of the public and private sector in a dynamic partnership to support research, policy development, and dissemination activities.

To prepare the next generation of political leadership through educational programs that promote the principles of Jeffersonian democracy, which are necessary for a free society.

SCHOLARSHIP POLICY BY MEETING

ALEC Spring Task Force Summit:

1. ***Spring Task Force Summit Reimbursement Form:*** ALEC Task Force Members are reimbursed by ALEC up to \$350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.
2. ALEC Task Force Members' room & tax fees for up to a two-night stay at the host hotel are covered by ALEC.
3. Registration fees are not covered; however, Task Force Members may submit registration expenses for payment from their state scholarship account upon approval of the State Chair.
4. ***Official Alternate Task Force Members*** (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) are reimbursed in the same manner as Task Force Members.
5. ***State Scholarship Reimbursement Form:*** Any fees above the set limit, or expenses other than travel and room expenses can be submitted by Task Force Members for payment from their state scholarship account upon the approval of the State Chair. Receipts must be submitted to the State Chair, who will submit the signed form to the Director of Membership.
6. ***Non-Task Force Members*** can be reimbursed out of the state scholarship fund upon State Chair approval. Receipts must be submitted to the State Chair, who will submit the appropriate signed form to the Director of Membership.

ALEC Annual Meeting:

State Scholarship Reimbursement Form: State scholarship funds are available for reimbursement by approval of your ALEC State Chair. Expenses are reimbursed after the conference, and may cover the cost of travel, room & tax, and registration. Receipts are to be submitted to the State Chair, who will then submit the signed form to the Director of Membership.

ALEC States & Nation Policy Summit:

1. ***States & Nation Policy Summit Reimbursement Form:*** ALEC offers two scholarships per state to cover the cost of travel, room & tax, and registration not to exceed \$1,000.00 per person for a total of \$2,000.00 per state. ALEC scholarship recipients must be named by the ALEC State Chair. Expenses are submitted to the State Chair and reimbursed after the conference. The State Chair submits the signed form to the Director of Membership.
2. ***State Scholarship Reimbursement Form:*** Any other fees or payments must come out of the state scholarship account, with the approval of the State Chair. Receipts must be submitted to the State Chair, who submits the signed form to the Director of Membership.

ALEC Academies:

Academy Reimbursement Form: Attendees of ALEC Academies are reimbursed by the Task Force Committee hosting the Academy. Attendees will receive a form at the Academy, and will be reimbursed up to \$500.00 for travel, and room & tax fees for a two-night stay by ALEC. Receipts must be forwarded to the appropriate Task Force Director and approved by the Director of Policy.

ATTENDEE

REGISTRATION / HOUSING FORM

Early registration deadline: June 7, 2011

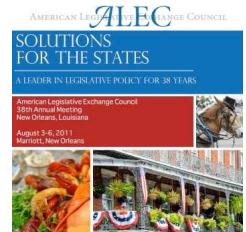
Standard registration deadline: July 11, 2011

Housing cut-off date: July 11, 2011

AMERICAN LEGISLATIVE EXCHANGE COUNCIL



New Orleans Marriott - New Orleans, LA



Online
www.alec.org

Fax (credit cards only)
202.331.1344

Phone / Questions • Mon-Fri, 9am-5:30 pm Eastern
Registration: 202.742.8538 / Housing: 800.228.9290

ATTENDEE INFORMATION

Prefix (required) Sen Rep Del Mr Mrs Ms Other _____

Last Name _____ First Name _____ Middle Initial _____ Badge Nickname _____

Title _____

Organization (required) _____

Address _____ Suite # _____

City _____ State/Province _____ Country _____ ZIP/Postal code _____

Daytime phone _____ Fax _____ Alternate phone _____

Email (confirmation will be sent by email) _____

Spouse / Guest / Kids' Congress: Please complete the Spouse / Guest / Kids' Congress registration form.

REGISTRATION INFORMATION

****Save \$100 on registration by booking your hotel room in ALEC's headquarter hotel****

DISCOUNTED REGISTRATION FEES are extended only to registrants booking in ALEC's headquarter hotel. Your \$100 savings will become valid when accommodations are confirmed.

	EARLY until June 7	STANDARD until July 11	ON-SITE begin July 12	DAILY	Amount
<input type="checkbox"/> I am already registered: Order # _____					
<i>**Please note that member fees are subject to verification</i>					
<input type="checkbox"/> ALEC Legislative Member	\$475	\$575	\$675	\$295	\$_____
<input type="checkbox"/> Legislator / Non-Member	\$575	\$675	\$725	\$395	\$_____
<input type="checkbox"/> ALEC Private Sector Member	\$840	\$930	\$1099	\$595	\$_____
<input type="checkbox"/> Private Sector / Non-Member	\$975	\$1065	\$1350	\$695	\$_____
<input type="checkbox"/> ALEC Non-Profit Member (501(c)(3) status required)	\$610	\$685	\$760	\$395	\$_____
<input type="checkbox"/> Non-Profit Non-Member (501(c)(3) status required)	\$725	\$800	\$875	\$495	\$_____
<input type="checkbox"/> Legislative Staff / Government	\$650	\$750	\$900	\$495	\$_____
<input type="checkbox"/> ALEC Legacy Member	\$0	\$0	\$0	\$0	\$_____

Promo Code _____

TOTAL REGISTRATION FEES: \$ _____

Note: Registration forms with enclosed payments must be received by 5pm Eastern on the following dates to be eligible for discounted registration rates: June 7, 2011, for early registration rates, or July 11, 2011, for standard registration rates. Forms and/or payments received after July 11, 2011, will be subject to the on-site registration rate. If registering after July 11, 2011, please bring completed form and payment to register on-site.

REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed, faxed, or mailed within 72 hours of receipt of payment.

REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations cancelled prior to 5pm Eastern July 11, 2011 are subject to a \$100 cancellation fee. Registrations are non-refundable after 5pm Eastern July 11, 2011.

HOUSING

RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS 12pm Eastern July 11, 2011

****Save \$100 on registration by booking your hotel room in ALEC's headquarter hotel****

I do not require a reservation at this time.

Arrival Date _____ Departure Date _____

Sharing room with _____

Room type

<input type="checkbox"/> Single	(1 person – 1 bed)	\$ 183
<input type="checkbox"/> Double	(2 persons – 1 bed)	\$ 213
<input type="checkbox"/> Dbl/Dbl	(2 persons – 2 beds)	\$ 213
<input type="checkbox"/> Triple	(3 persons – 2 beds)	\$ 243
<input type="checkbox"/> Quad	(4 persons – 2 beds)	\$ 273

A limited number of suites are available upon request. Please call 800.228.9290 for additional information.

Special requests

ADA room required:
____ Audio ____ Visual ____ Mobile
 Rollaway / crib: _____
 Other: _____

METHOD OF HOUSING PAYMENT

Please use the same method of payment as above.

Credit Card: Credit cards will be used to guarantee the reservation

Amer Express Visa MasterCard Discover

Card # _____

Cardholder (please print) _____

Exp Date (mm/yy) _____ Security Code _____

Signature _____

* All rates DO NOT include state and local tax currently 13% plus occupancy tax \$3.00 (subject to change)

Note: Cutoff for reservations at the ALEC rate is July 11, 2011. After July 11, 2010, every effort will be made to accommodate new reservations, based on availability and rate.

HOUSING CONFIRMATION INFORMATION

Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email, fax, or mail within 72 hours of receipt.

HOUSING CANCELLATION / REFUND INFORMATION

Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Departures prior to the departure date confirmed by the hotel at check-in will result in a charge of \$100 plus tax. Please obtain a cancellation number when your reservation is cancelled.



American Legislative Exchange Council TASK FORCE OPERATING PROCEDURES

I. MISSION OF TASK FORCES

Assume the primary responsibility for identifying critical issues, developing ALEC policy, and sponsoring educational activities which advance the Jeffersonian principles of free markets, limited government, federalism, and individual liberty. The mission will be accomplished through a non-partisan, public and private partnership between ALEC's legislative and private sector members in the specific subject areas assigned to the Task Force by the Board of Directors.

II. TASK FORCE RESPONSIBILITIES

- A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC's official policy statements and model legislation appropriate to the specific subject areas of the Task Force.
- B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC's state legislator and private sector members.
- C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:
 - publications that express policy positions, including, but not limited to State Factors and Action Alerts;
 - educational communication and correspondence campaigns;
 - issue specific briefings, press conferences and press campaigns;
 - witness testimony and the activities of policy response teams;
 - workshops at ALEC's conferences; and
 - specific focus events.
- D. The Executive Director is to Task Forces are responsible for developing an annual budgets, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.

III. GENERAL PROCEDURES

- A. Requests from ALEC members for policy statements, model legislation and educational activities shall be directed by the Executive Director to the appropriate Task Force, or the Board of Directors if the issue does not fall within the jurisdiction of any Task Force. The appropriate Public and Private Sector Task Force Co-Chairs determine the agenda for each Task Force meeting, and the meetings will be called and conducted in accordance with these Operating Procedures.

The Director of Policy with the consent of the Executive Director assigns a model bill or resolution to the most appropriate Task Force based on Task Force content and prior jurisdictional history 35 days before a Task Force Meeting. All Task Force Co-Chairs will be provided an email or fax summary of all model bills and resolutions 35 days before the Task Force meeting

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have 10 days after the 35-day mailer deadline to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdiction assignment. The Director of Policy will notify the Executive Director who will in turn notify the National Chair and the Private Enterprise Board Chair. The National Chair and the Private Enterprise Board Chair will in turn refer the matter in question to the Board of Directors Task Force Board Committee. The Director of Policy will establish a conference call for the Task Force Board Committee co-chairs, the author, the affected Task Force Co-Chairs and the Director of Policy at a time convenient for all participants.

The Task Force Board Committee Co-Chairs shall listen to the jurisdictional dispute by phone or in person within 10 days of the request. If both Task Force Board Committee Co-Chairs are in agreement that the Director of Policy made an incorrect jurisdictional referral, only then will the model bill or resolution be reassigned to a committee as they specify once agreed upon by the National Chair and the Private Enterprise Board Chair. The bill or model resolution is still eligible to be heard in whatever Task Force it is deemed to be assigned to as if submitted to the correct Task Force for the 35-day mailer. The National Chair and the Private Enterprise Board Chair decision is final on this model bill or resolution.

Joint referral of model legislation and/or resolutions are allowed if all the affected Task Force Co-Chairs agree. All model legislation and resolutions that have been referred to, more than one Task Force must pass the identical language in both Task Forces within two consecutive Task Force meetings. It is at the Task Force

Co-Chairs discretion how they will handle the hearings of the model legislation or resolution. Both sets of co-chairs have the ability to call a working group, subcommittee, or simply meet consecutively or concurrently if necessary.

If the Task Force co-chairs both agree to waive jurisdiction, they may do so as long as another Task Force still has jurisdiction.

The National Chair and the Private Sector Board Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.

- B. The National Chair and the Private Sector Board Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.
- C. The Board of Directors shall have ultimate authority over Task Force procedures and actions including the authority to create, to merge or to disband Task Forces and to review Task Force actions in accordance with these Operating Procedures. Nothing in these Operating Procedures prohibits the Board of Directors from developing ALEC policy; however, such a practice should be utilized only in exceptional circumstances. Before the policy is adopted by the Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Board of Directors.
- D. The operating cycle of a Task Force is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.
- E. ~~At the ALEC Annual Meeting, each Task Force will be responsible for determining an operating budget for the succeeding calendar year. The Executive Director will notify the Task Force Co-Chairs, at the ALEC Annual Meeting, what inflation factor will be used by the Task Force to determine the operating~~

~~and programming budgets. Task Force membership and budget information will be reported to the Executive Director by the Public and Private Sector Task Force Co-Chairs. The Executive Director will present this information to the Board of Directors at its regular fall meeting.~~

- F. If a Task Force is unable to develop an operating budget, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.
- G. The Board of Directors shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

- A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force's operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year's assessment for the Task Force operating budget prior to March 31st, unless an alternative date has been approved by the Executive Director.
- B. Each Task Force shall have least two Co-Chairs; a Public Sector Task Force Co-Chair and a Private Sector Task Force Co-Chair. The Public Sector Task Force Co-Chair must be a member of the Task Force and appointed in accordance with Section VI (A). The Private Sector Co-Chair must represent a private sector member of the Task Force and be appointed in accordance with Section VI(B). The Co-Chairs shall be responsible for:
 - (1) calling the Task Force and the Executive Committee meetings to order, setting the agenda and co-chairing such meetings;
 - (2) appointing and removing legislators and private sector members to and from the Task Force Executive Committee and subcommittees;
 - (3) creating subcommittees, and determining each subcommittee's mission, membership limit, voting rules, deadlines, and term of service; and

- (4) selecting Task Force members to provide support for and against Task Force policies during formal Board reviews.
- C. Each Task Force shall have an Executive Committee appointed by the Public and Private Sector Task Force Co-Chairs that is appropriate in number to carry out the work product and strategic plan of ALEC and the Task Force. The Executive Committee shall consist of the Public Sector Task Force Co-chair, the Private Sector Task Force Co-Chair, the subcommittee co-chairs, and the remainder will be an equal number of legislative and private sector Task Force members. The Executive Committee will be responsible for determining the operating budget and proposing plans, programs and budgets for the succeeding year in accordance with (Section V (B); determining if a proposed educational activity conforms to a previously approved model bill, resolution or policy statement in accordance with (Section IX (F); and determining if an emergency situation exists that justifies waiving or reducing appropriate time limits in accordance with (Section VIII (H)).
- D. Each Task Force may have any number of subcommittees, consisting of Task Force members and advisors to focus on specific areas and issues and make policy recommendations to the Task Force. The Task Force Co-chairs, shall create subcommittees and determine each subcommittee's mission, membership limit, voting rules, deadlines, and term of service. Any model bill, resolution or policy statement approved by a subcommittee must be approved by the Task Force before it can be considered official ALEC policy.
- E. Each Task Force may have advisors, appointed in accordance with Section VI (G). Advisors shall assist the members and staff of the Task Force. They shall be identified as advisors on official Task Force rosters, included in all official Task Force mailings and invited to all Task Force meetings. Advisors may also have their expenses paid at Task Force meetings covered by the Task Force operating budget with the approval of the Task Force Co-Chairs. An advisor cannot be designated as the primary contact of a private sector Task Force member, cannot be designated to represent a private sector Task Force member at a Task Force, Executive Committee, or subcommittee meeting, and cannot offer or vote on any motion at a Task Force, Executive Committee, or subcommittee meeting.

V. Task Force Budgets

- A. Each Task Force shall develop and operate a yearly budget to fund meetings.
- B. The operating budget shall be used primarily to cover expenses for Task Force meetings, unless specific funds within the budget are authorized for other use by the Task Force. The operating budget shall be assessed equally among the private sector members of the Task Force. The Executive Director, in consultation with the Task Force Co-Chairs shall determine which costs associated with each meeting will be reimbursed from the operating budget. Any funds remaining in a

Task Force's operating budget at the end of a year are transferred to ALEC's general membership account.

- C. The operating budget shall not be used to cover Task Force meeting expenses associated with alternate task force members' participation, unless they are appointed by their State Chair to attend the Spring Task Force Summit with the purpose to serve in place of a Task Force Member who is unable to attend. Task Force meeting expenses of alternate task force members shall be covered by their state's scholarship account.
- D. The programming budget shall be used to cover costs associated with educational activities. Contributions to the programming budget are separate, and in addition to operating budget contributions and annual general support/membership contributions to ALEC. The Executive Director shall determine the contribution required for each educational activity.

VI. PROCESS FOR SELECTING TASK FORCE MEMBERS, CHAIRS, COMMITTEES AND ADVISORS

- A. Prior to February 1 of each odd-numbered year, the current and immediate past National chairman will jointly select and appoint in writing three legislative members and three alternates to the Task Force who will serve for the current operating cycle, after receiving nominations from ALEC's Public and Private State Chairs, the Executive Director and the ALEC Public and Private Sector members of the Board. At any time during the year, the National Chairman may appoint in writing new legislator members to each Task Force, except that no more than three legislators from each state may serve as members of any Task Force, no legislator may serve on more than one Task Force and the appointment cannot be made earlier than thirty days after the new member has been nominated. In an effort to ensure the nonpartisan nature of each Task Force, it is recommended that no more than two legislators of any one political party from the same state be appointed to serve as members of any Task Force. A preference will be given to those ALEC legislator members who serve on or chair the respective Committee in their state legislature. A preference will be given to legislators who sponsor ALEC Task Force model legislation in the state legislature.
- B. Prior to January 10 of each odd-numbered year, the current and immediate past National Chairman will jointly select and appoint in writing the Task Force Chair who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Chair and may be placed in rank order prior to transmittal to the Executive Director no later than December 1 of each even-numbered year. No more than five names may be submitted in nomination by the outgoing Task Force chair. The current and immediate past National Chairmen will jointly make the final selection, but

should give strong weight to the recommendations of the outgoing Task Force Chair. In an effort to empower as many ALEC leaders as possible, State Chairs and members of the Board of Directors will not be selected as Task Force Chairs. Task Force Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past National Chairmen may reappoint a Task Force Chair to a second operating cycle term.

- C. Prior to February 1 of each odd numbered year, the Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members of the Task Force Executive Committee, who will serve for the current operating cycle. The Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members and advisors to any subcommittee.
- D. Prior to February 1 of each year, the Private Enterprise Board Chair and the immediate past Private Enterprise Board Chair will select and appoint in writing the private sector members to the Task Force who will serve for the current year. The appointment letter shall be mailed to the individual designated as the primary contact for the private sector entity. At any time during the year, the Chair of the Private Enterprise Board may appoint in writing new private sector members to each Task Force, but no earlier than thirty days after the new member has qualified for full membership in ALEC and contributed the assessment for the appropriate Task Force's operating budget.
- E. Prior to January 10 of each odd-numbered year, the Chair of the Private Enterprise Board and the immediate past Private Enterprise Board Chair will select and appoint in writing the Task Force Private Sector Co-Chair who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Board. The Chair and the immediate past Chair of the Private Enterprise Board will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Board will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Board may reappoint a Task Force Private Sector Chair to a second operating cycle term.
- F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the private sector members of the Task Force Executive Committee, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.

- G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as advisors to the Task Force. The National Chair and the Private Enterprise Board Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.

VII. REMOVAL AND VACANCIES

- A. The National Chair may remove any Public Sector Task Force Co-Chair from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.
- B. The Public Sector Task Force Co-Chair may remove any legislative member of an Executive Committee or subcommittee from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.
- C. The Chairman of the Private Enterprise Board may remove any Private Sector Task Force Co-Chair from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues. .
- D. The Private Sector Task Force Co-Chair may remove any private sector member of an Executive Committee or subcommittee from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.
- E. The Public and Private Sector Task Force Co-Chairs may remove an advisor from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.
- F. Any member or advisor may resign from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.

- G. All vacancies for Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, Executive Committee member and subcommittee member shall be filled in the same manner in which selections are made under Section VI. All vacancies to these positions must be filled within thirty days of the effective date of the vacancy.

VIII. MEETINGS

- A. Task Force meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII(H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. Executive Committee meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.
- B. At least forty-five days prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or amendment of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).
- C. All Task Force meetings are open to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions and be seated at the table during Task Force meetings, unless otherwise permitted by the Public and Private Sector Task Force Co-Chairs.
- D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the appointment letter sent pursuant to Section VI(D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.

- E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of Roberts Rules of Order, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.
- F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A vote on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. No proxy, absentee or advance voting is allowed.
- G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a Task Force vote by mail or ~~fax~~ any form of electronic communication on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or ~~faxed~~ notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or ~~faxed~~ notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and policy statements be mailed or ~~faxed~~ notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.
- H. For purposes of Sections VIII(A), (B) and (G), an emergency situation can be declared by:
 - (1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or
 - (2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

- I. Ten Task Force members shall constitute a quorum for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. *REVIEW AND ADOPTION PROCEDURES*

- A. All Task Force policy statements, model bills or resolutions shall become ALEC policy either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, a formal review by the Board of Directors. General information about the adoption of a policy position may be announced upon adoption by the Task Force.
- B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be formally reviewed by the Board of Directors before the policy is adopted as official ALEC policy.
- C. A member of the Board of Directors may request a formal review by the Board of Directors. The request must be in writing and must state the cause for such action and a copy of the letter requesting the review shall be sent by the National Chairman to the appropriate Task Force Chair. The National Chairman shall schedule a formal review by the Board of Directors no later than the next scheduled Board of Directors meeting.
- D. The review process will consist of key members of the Task Force, appointed by the Task Force Chair, providing the support for and opposition to the Task Force position. Position papers may be faxed or otherwise quickly transmitted to the members of the Board of Directors. The following is the review and adoption procedures:
 - Notification of Committee: Staff will notify Task Force Chairs and the entire task force when the Board requests to review one of the Task Forces' model bills or resolutions.
 - Staff Analysis: Will be prepared in a neutral fashion. The analyses will include:
 - History of Task Force action
 - Previous ALEC official action/resolutions
 - Issue before the board
 - Proponents arguments

- Opponents arguments
- Standardized Review Format: To ensure fairness, a set procedure will be used as the format to ensure the model bill/resolution has a fair hearing before the Board.
 - Task Force Chair(s) will be invited to attend the Board Review
 - Task Force Chair(s) will decide who will present in support and in opposition for the model bill/resolution before the Board.
 - Twenty minutes that is equally divided will be given for both sides to present before the Board.
 - It is suggested that the Board not take more than twenty minutes to ask questions of the presenters.
 - Presenters will then be excused and the Board will have a suggested twenty more minutes for discussion and vote.
 - All votes will be recorded for the official record.
- Notification of Committee: The Director of Policy will notify presenters immediately after the vote. If the Board votes to send the model bill/resolution back to the task force, the Board will instruct the Director of Policy or another board member what to communicate.

E. The Board of Directors can:

- (1) Vote to affirm the policy or affirm the policy by taking no action, or
- (2) Vote to disapprove the policy, or
- (3) Vote to return the policy to the Task Force for further consideration providing reasons therefore.

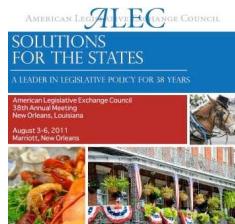
F. Task Forces may only undertake educational activities that are based on a policy statement, model bill or resolution that has been adopted as official ALEC policy, unless the Task Force votes to undertake the educational activity, in which case the educational activity is subjected to the same review process outlined in this Section. It is the responsibility of the Task Force Executive Committee to affirm by three-fourths majority vote conducted in accordance with Section VIII that an educational activity conforms to a policy statement, model bill or resolution.

X. EXCEPTIONS TO THE TASK FORCE OPERATING PROCEDURES.

Exceptions to these Task Force Operating Procedures must be approved by the Board of Directors.

SPOUSE / GUEST KIDS' CONGRESS REGISTRATION FORM

AMERICAN LEGISLATIVE EXCHANGE COUNCIL **ALEC**



Early registration deadline: May 2, 2011
Standard registration deadline: July 11, 2011

New Orleans Marriott - New Orleans, LA



Online
www.alec.org

Fax (credit cards only)
202.331.1344

Phone / Questions • Mon-Fri, 9am-5:30 pm Eastern
202.742.8538

Mail • ALEC Registration & Housing
P.O. Box 96754 • Washington, DC 20090-6754

IMPORTANT: Please identify the ALEC attendee

ALEC ATTENDEE Profile Information

First Name	Last Name	REGISTRATION ORDER NUMBER			
Daytime Phone					
Email (Confirmation will be sent by email)					

SPOUSE / GUEST / KIDS' CONGRESS Registration Fees		(#) x	EARLY until May 2	STANDARD until July 11	ON-SITE begin July 12	DAILY	Amount
A. Spouse / Guest / Child 18 yrs or older		() x	\$150	\$150	\$150	n/a	= \$ _____
B. Kid's Congress (6 months to 17 yrs) for ALEC Members Full Conference Rate		() x	\$250	\$350	\$550	n/a	= \$ _____
C. Kid's Congress (6 months to 17 yrs) for Non-ALEC Members Full Conference Rate		() x	\$350	\$450	\$650	n/a	= \$ _____
D. Kid's Congress (6 months to 17 yrs) Day rate: Wed., Thurs., or Fri.		() x	\$150	\$150	\$250	n/a	= \$ _____

SPOUSE / GUEST / KID'S REGISTRATION FEE(s) TOTAL \$ _____

Spouse / Guest / Child Names		<i>Please list the names of the spouse / guest / children below</i>			
Spouse / Guest / Child Name	Child Date of Birth	Registration Type A,B,C,D (above)	Spouse / Guest / Child Name	Child Date of Birth	Registration Type A,B,C,D (above)
1.			5.		
2.			6.		
3.			7.		
4.			8.		

Payment Information

Credit Card: Credit cards will be charged immediately. Please fax to the above number for processing.

<input type="checkbox"/> American Express	Card # _____
<input type="checkbox"/> Visa	Cardholder (please print) _____
<input type="checkbox"/> MasterCard	Exp Date (mm/yy) _____ Security Code _____
Signature _____	

Check / money order: Payment must be in U.S. currency drawn on a U.S. bank. Please make check payable to ALEC Registration and send to above address.

Note: Registration forms with enclosed payments must be received by 5pm Eastern on the following dates to be eligible for discounted registration rates: May 2, 2011, for early registration rates, or July 11, 2011, for standard registration rates. Forms and/or payments received after July 11, 2011 will be subject to the on-site registration rate. If registering after July 11, 2011 please bring completed form and payment to register on-site.

Confirmation Information

Online registrants will receive immediate confirmation via email. If registering by written form, confirmation will be emailed (if address provided), faxed, or mailed within 72 hours of receipt of payment.

Cancellation / Refund Information

Registrations cancelled prior to 5:00 p.m. (EST) July 11, 2011 are subject to a \$100 cancellation fee. Registrations are non-refundable after 5:00 p.m. (EST) July 11, 2011.